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Superintendent for Public Instruction Tony
Thurmond*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

EASTERN DISTRICT OF CALIFORNIA

**CHINO VALLEY UNIFIED SCHOOL
DISTRICT, a local educational agency;
ANDERSON UNION HIGH SCHOOL
DISTRICT, a local educational agency;
ORANGE COUNTY BOARD OF
EDUCATION, a local educational agency;
OSCAR AVILA, an individual; MONICA
BOTTS, an individual; JASON CRAIG, an
individual; KRISTI HAYS, an individual;
COLE MANN, an individual; VICTOR
ROMERO, an individual; GHEORGHE
ROSCA, JR., an individual; and LESLIE
SAWYER, an individual,**

Plaintiffs,

v.

**GAVIN NEWSOM, in his official capacity as
Governor of the State of California;
ROBERT BONTA, in his official capacity as
Attorney General of the State of California;
and TONY THURMOND, in his official
capacity as California State Superintendent
of Public Instruction,**

Defendants.

2:24-cv-01941-DJC-JDP

**NOTICE OF DEFENDANTS' MOTION
TO DISMISS AND MOTION TO
DISMISS**

Date: December 19, 2024
Time: 1:30 p.m.
Courtroom: 10
Judge: The Hon. Daniel J. Calabretta

Action Filed: July 16, 2024

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on December 19, 2024, at 1:30 p.m. at the United States District Court, Eastern District of California, Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, CA, 95814, Courtroom 10, 13th floor, Defendants Governor Gavin Newsom, Attorney General Rob Bonta, and State Superintendent of Public Instruction will and do hereby move to dismiss this action under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) on the grounds that this Court lacks subject matter jurisdiction and that Plaintiffs have failed to state a claim for violations of substantive due process rights as parents under the Fourteenth Amendment of the U.S. Constitution (claim 1); the First Amendment right to free exercise of religion (claim 2); the Family Educational Rights and Privacy Act (claim 3); and federal preemption by the First and Fourteenth Amendments (claim 4); and for Plaintiffs' claim for declaratory relief under the Declaratory Judgment Act (claim 5).

This motion is made following the telephone conference of counsel that took place on October 3, 2024. During that conference, the parties discussed the substance of the arguments Defendants would raise in the Motion to Dismiss (a detailed summary of which Defendants' counsel previously had sent to Plaintiffs' counsel by email). Plaintiffs' counsel indicated there was not agreement on these arguments, and the parties did not agree to any resolution of the claims. The parties agreed that meet and confer efforts were exhausted, and there were no procedural or other non-substantive matters for resolution at the time.

The motion is based upon the Notice, the Memorandum of Points and Authorities, the pleadings and papers filed herein, the Request for Judicial Notice filed concurrently, and any argument the Court may hear.

1 Dated: October 7, 2024

Respectfully submitted,

2 ROB BONTA
3 Attorney General of California
4 DARRELL W. SPENCE
5 Supervising Deputy Attorney General



6 EMMANUELLE S. SOICHET
7 Deputy Attorney General
8 *Defendants Governor Gavin Newsom,*
9 *Attorney General Rob Bonta, and State*
10 *Superintendent for Public Instruction Tony*
11 *Thurmond*

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CERTIFICATE OF SERVICE

Case Name: **Chino Valley Unified School
District, et al. v. Gavin
Newsom, et al.**

No. **2:24-cv-01941-DJC-JDP**

I hereby certify that on October 7, 2024, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

- **NOTICE OF DEFENDANTS' MOTION TO DISMISS AND MOTION TO DISMISS**
- **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**
- **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**
- **DECLARATION OF EMMANUELLE S. SOICHET IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE RE: MOTION TO DISMISS**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on October 7, 2024, at San Francisco, California.

Claudine Santos
Declarant

/s/Claudine Santos
Signature